

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

FIRST APPEAL No 513 of 1984

For Approval and Signature:

Hon'ble ACTING CHIEF JUSTICE MR.JN BHATT

and

Hon'ble MR.JUSTICE A.L.DAVE

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO
 2. To be referred to the Reporter or not? : NO
 3. Whether Their Lordships wish to see the fair copy of the judgement? : NO
 4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO
 5. Whether it is to be circulated to the concerned Magistrate/Magistrates, Judge/Judges, Tribunal/Tribunals? : NO

G.S.R.T. CORPORATION

Versus

RATNABEN NARSHIBHAI

Appearance:

MR MD PANDYA for Petitioner No. 1

MR PM THAKKAR for Respondent No. 1-8

CORAM : ACTING CHIEF JUSTICE MR.JN BHATT

and

MR.JUSTICE A.L.DAVE

Date of decision: /07/2003

C.A.V. JUDGEMENT

(Per : MR.JUSTICE A.L.DAVE)

1. By this appeal, Gujarat State Road Transport Corporation challenges the judgment and award passed by the Motor Accident Claims Tribunal (Main), Rajkot, in Motor Accident Claim Case No.305 of 1982, on 9th September, 1983.

2. Respondents No.1 to 7 herein were the original claimants, respondent No.8 was the driver of the

bus-original opponent No.1 and the appellant-original opponent No.2 is the owner of the bus. The claimants had claimed a compensation of Rs.2 lakhs on account of death of Laljibhai Ratnabhai Atara, a young boy of 19 years of age, in an accident that occurred on March 29, 1982, at about 5.30 P.M. on the Rajkot-Virpur Highway, near Virpur S.T. depot, when the deceased was knocked down by bus No.GRT 7373, while he was proceeding on his bicycle. The bus was driven by present respondent No.8-original opponent No.1. Deceased Lalji succumbed to the injuries. The accident occurred while the deceased was passing on the highway on his bicycle. The bus came at an excessive speed. It was being driven by opponent No.1 in a rash and negligent manner without taking any care or caution. The deceased was hit with the front portion of the bus without even an attempt on part of the driver of the bus to stop the vehicle. No brakes were applied, no attempt was made to lower the speed of the bus. The deceased was taken to Government Hospital, Gondal, where he succumbed to the injuries. The case of the claimants before the Tribunal was that the deceased was contributing to the agriculture work, he was studying and was also engaged in painting sign boards and repair of radio, etc.

3. Before the Tribunal, the driver of the bus did not appear despite being served with summons. The appellant-original opponent No.2 filed a written statement at Ex.10 and denied the contentions raised in the claim petition. The Tribunal, after considering the evidence on record, found that the driver of the bus was solely responsible for the mishap. The Tribunal considered the evidence on the quantum aspect and, ultimately, came to a conclusion that there is no substance in the case of the applicants so far as the deceased being engaged in repair of radio is concerned. However, the Tribunal accepted in part the case of the claimants and assessed the income of the deceased at Rs.500/- per month; deducting an amount of Rs.100/- for personal expenses and accepted the dependency of the parents at the rate of Rs.400/- per month; adopted a multiplier of five years and awarded an amount of Rs.24,000/- as future economic loss. The Tribunal also considered that, in future, the deceased would have married and the economic dependency of the claimants would have reduced. For that purpose, the Tribunal assessed the dependency at the rate of Rs.300/- per month and adopted multiplier of 10 years and awarded an amount of Rs.36,000/- for future economic loss on that count. The total amount of dependency loss was assessed at Rs.60,000/-, conventional compensation for expectation of life Rs.5000/- and Rs.1000/- came to be awarded as after

death ceremony expenses. In all, the Tribunal awarded an amount of Rs.66,000/-.

4. We have gone through the record and proceedings and considered the contentions raised before us by the learned Advocate, Mr. Pandya, as well as the learned Advocate for the respondents.

5. On perusal of the evidence on aspect of negligence, it has to be noted that the driver has not stepped into the witness box. The case of the Corporation is not supported by any oral evidence. Having regard to the evidence in the nature of Panchnama drawn at the place of incident and produced at Ex.34, we find that the assessment made by the Tribunal is just and proper and no interference is called for.

6. So far as the quantum aspect is concerned, we find that the Tribunal has taken into consideration all relevant materials. The Tribunal has split the dependency into two parts, initial dependency assessed at Rs.400/- per month for the period for which the deceased would have remained unmarried and Rs.300/- for the period after the deceased would have married. The Tribunal has assessed the income of the deceased at the rate of Rs.300/- to 400/- per month and considering the prospective rise in the income, assessed the income of the deceased at Rs.500/- per month. We do not find any reason to interfere with the assessment of the income made by the Tribunal, which is done after due consideration of the evidence. The principles for quantification of the compensation have been properly followed by the Tribunal and, in light of the evidence led by the applicants, we do not find any reason for interference in the judgment delivered by the Tribunal either by reducing the compensation or by enhancing the compensation by accepting either the appeal or the cross objections, respectively. The appeal is, therefore, dismissed with no order as to costs.

[J.N. BHATT, ACTG.C.J.]

[A. L. DAVE, J.]

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